

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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	:	
RISEANDSHINE CORPORATION,	:	
Plaintiff,	:	21 Civ. 6324 (LGS)
	:	
-against-	:	<u>ORDER</u>
	:	
PEPSICO INC.,	:	
Defendant.	:	
-----X		
LORNA G. SCHOFIELD, District Judge:		

WHEREAS, on October 10, 2022, the parties filed a joint letter regarding Defendant's anticipated motion for summary judgment. The same day, Defendant filed a letter seeking leave to file a *Daubert* motion regarding two of Plaintiff's experts, requesting that this motion be briefed concurrently with its motion for summary judgment.

WHEREAS, on October 10, 2022, Defendant also filed a motion to seal the letter regarding the *Daubert* motion. That motion indicated that both parties wished to file portions of the letter under seal.

WHEREAS, the Court's Individual Rules require any party with an interest in confidential treatment in a publicly filed document to file a letter on ECF within two business days, explaining why it seeks to have certain documents filed in redacted form or under seal. Neither party has filed such a letter. It is hereby

**ORDERED** that Defendant's motion will be briefed as follows:

Defendant shall file its Motion and Required Papers by **November 4, 2022**. Any memorandum of law filed in support of the motion shall not exceed twenty-five (25) pages.

Plaintiff shall file its opposition to the motion, not to exceed twenty-five (25) pages, by **December 1, 2022**.

Defendant shall file its reply, not to exceed ten (10) pages, by **December 14, 2022**. It is further

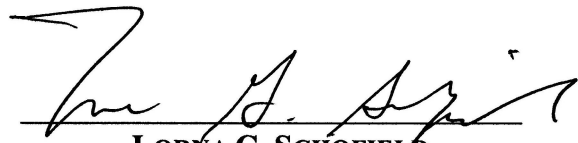
**ORDERED** that the parties each may file a maximum of 225 pages of exhibits in support of or in opposition to the motion, regardless of the total number of exhibits. Any expert report (or portions of an expert report) filed as an exhibit shall count toward the page total. Any party that files portions of an expert report as an exhibit shall provide the Court with an electronic, text-searchable courtesy copy of the entire document. The parties shall email [Schofield\\_NYSDChambers@nysd.uscourts.gov](mailto:Schofield_NYSDChambers@nysd.uscourts.gov) requesting a link to upload such a courtesy copy. Any relevant or cited portions of an expert report shall be included as an exhibit, and these courtesy copies shall not be used as a means of circumventing the page limits for exhibits. It is further

**ORDERED** that Defendant's request to brief one of its anticipated *Daubert* motions concurrently with its motion for summary judgment is **DENIED**. Any *Daubert* motions shall be briefed together in conjunction with the parties' motions *in limine* prior to trial. It is further

**ORDERED** that Defendant's request to file its pre-*Daubert* motion letter under seal is **DENIED**, without prejudice to refile. All documents currently filed under seal shall remain under seal at this time. Any renewed motion to file under seal shall be made by **October 21, 2022**. The parties are directed to Section I.D of the Court's Individual Rules for the requirements for filing under seal. The parties are also reminded that the presumption of public access to judicial materials "requires a court to make specific, rigorous findings" that countervailing considerations override the presumption. *Olson v. Major League Baseball*, 29

F.4th 59, 88 (2d Cir. 2022) (internal quotations omitted). Redactions must be “narrowly tailored” to serve those competing considerations. *Lugosch*, 435 F.3d 110, 120 (2d Cir. 2006). While preventing competitive harm is recognized as a countervailing interest, redactions should be to “specific business information and strategies, which if revealed, may provide valuable insights . . . that a competitor would seek to exploit.” *Louis Vuitton Malletier S.A. v. Sunny Merch. Corp.*, 97 F. Supp. 3d 485, 511 (S.D.N.Y. 2015) (internal quotation marks omitted).

Dated: October 14, 2022  
New York, New York



**LORNA G. SCHOFIELD**  
**UNITED STATES DISTRICT JUDGE**